

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

LOUIS MICKENS-THOMAS,	:	CIVIL ACTION
Petitioner,	:	
	:	NO. 99-6161
v.	:	
	:	
DONALD VAUGHN, et al.,	:	
Defendants.	:	

MEMORANDUM

BUCKWALTER, S. J.

September 3, 2009

The entire historical background is known to the parties. A recitation of part of it is necessary for purposes of this memorandum.

In an opinion filed January 14, 2004, Mickens-Thomas v. Vaughn, 355 F.3d 294, the Court of Appeals for the Third Circuit directed that Mickens-Thomas be released on parole. Defendants complied with the order and Mickens-Thomas was released on parole. However, on July 20, 2005, Mickens-Thomas was arrested for violating his parole. He responded by filing his third motion to enforce the order of the Court of Appeals aforesaid.

After hearings before this Court, a Memorandum and Order dated June 7, 2006 was entered denying Mickens-Thomas' third motion to enforce habeas judgment. In affirming this Court's order, the Court of Appeals in Mickens-Thomas v. Vaughn, 258 Fed.Appx. 480, stated in its opinion filed December 18, 2007 that, "nothing in the prior parole order required that Thomas remain paroled if he failed to satisfy the parole condition that he successfully complete the FTS program."

The Court also concluded that his constitutional claims, which are distinct from whether the Board violated the prior District Court order and are also unexhausted, should be dismissed without prejudice. These constitutional claims were subsequently exhausted before the appropriate state courts.

No appeal was taken by Mickens-Thomas from the state court. Instead, when Mickens-Thomas' parole was denied in August of 2008, he filed the present petition. Ultimately, on May 12, 2009, Mickens-Thomas was again denied parole. According to the denial order, he will be entitled to a parole review in April, 2010.

Mickens-Thomas has filed no state action as a result of the August, 2008 or May, 2009 denial of parole, although he alleges in the present motion (paragraphs 24-27) certain constitutional violations.

The defendant complied with the order of January 14, 2004 by releasing Mickens-Thomas on parole. As clarified by the December 18, 2007 order, nothing in that order required that Mickens-Thomas remain paroled.

There is a procedure for Mickens-Thomas to follow when parole is denied and his learned counsel is well aware of it.

Because defendant has complied with the order originally entered in this case as subsequently expanded upon by the December 18, 2007 ruling, Mickens-Thomas' present motion is denied. An order follows.